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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,273	12/26/2001	Gregory P. Ziarnik	1662-54700 JMH (P01-3833)	3317
23879	7590	07/28/2004	EXAMINER	
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			GARLAND, STEVEN R	
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,273

Applicant(s)

ZIARNIK, GREGORY P.

Examiner

Steven R Garland

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 12, 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen 6,194,858.

Chen teaches fan speed initializing to a first protocol (at least one fan speed) and changing the fan speed based on the temperature. Chen teaches the use of a plurality of speeds (protocols) and changing fan speed based on a temperature indication with different fan speeds being used when the temperature indication exceeds the same threshold (col. 2, lines 41-47). Chen also discloses that a higher fan speed results in more noise. See the abstract; figures; col. 2, lines 20-48; and the claims.

Chen however does not expressly state that only a single temperature indication is used but does expressly teach using a single temperature detector. Col. 2, lines 29-34.

It would have been obvious to one of ordinary skill in the art to modify Chen in view of this express teaching and used a single temperature detector to give a single temperature indication.

When the temperature indication exceeds the default temperature threshold a change in fan speed (protocol) occurs after initialization then when the temperature

Art Unit: 2125

indication is again checked and it still exceeds the same threshold (same level of temperature indication) a different speed is selected for this same temperature indication. See col. 2, lines 20-48. Note is also taken that the claims only require that the one temperature indication be used.

In regards to claim 18 when the system is initialized the first speed is preset and if the temperature exceeds the threshold then a second higher speed is selected with these two speeds forming a first protocol, then the additional higher and noisier speed(s) forming at least a second protocol.

3. Claims 1-5, and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen 6,194,858 in views of Takeda 6,414,843.

Chen teaches fan speed initializing to a first protocol (at least one fan speed) and changing the fan speed based on the temperature. Chen teaches the use of a plurality of speeds (protocols) and changing fan speed based on a temperature indication with different fan speeds being used when the temperature indication exceeds the same threshold (col. 2, lines 41-47). Chen also discloses that a higher fan speed results in more noise. See the abstract; figures; col. 2, lines 20-48; and the claims.

Chen however does not specifically show all the structure used to implement the method such as the processor and the temperature sensor. Chen does show a flowchart of the method in figure 1.

Takeda teaches use of a sensor, processor (cpu), control unit, and fan to implement a cooling system for a computer.

Art Unit: 2125

It would have been obvious to one of ordinary skill in the art to modify to Chen in view of Takeda and use a system such as taught by Takeda so that the flowchart could be physically implemented.

Further in regards to claims 5 and 11, obviously if not inherently when the system of Chen and Takeda is initialized the first speed is preset and if the temperature exceeds the threshold then a second higher speed is selected with these speeds obviously if not inherently forming a first protocol. While a second protocol is formed by the additional higher and noisier speed(s) of Chen and Takeda.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen 6,194,858 in views of Takeda 6,414,843 as applied to claims 1-5, and 7-11 above, and further in view of Nagaraj 6,321,175 (cited by applicant).

Chen teaches fan speed initializing to a first protocol (at least one fan speed) and changing the fan speed based on the temperature. Chen teaches the use of a plurality of speeds (protocols) and changing fan speed based on a temperature indication with different fan speeds being used when the temperature indication exceeds the same threshold (col. 2, lines 41-47). Chen also discloses that a higher fan speed results in more noise. See the abstract; figures; col. 2, lines 20-48; and the claims.

Chen however does not specifically show all the structure used to implement the method such as the processor and the temperature sensor. Chen does show a flowchart of the method in figure 1.

Art Unit: 2125

Takeda teaches use of a sensor, processor (cpu), control unit, and fan to implement a cooling system for a computer.

It would have been obvious to one of ordinary skill in the art to modify to Chen in view of Takeda and use a system such as taught by Takeda so that the flowchart could be physically implemented.

Chen and Takeda however do not specifically teach monitoring the temperature of the processor internally.

Nagaraj teaches monitoring the temperature of a processor internally. See col. 3, lines 33-40.

It would have been obvious to one of ordinary skill in the art to modify Chen and Takeda in view of Nagaraj and control the fan based on the processor internal temperature. This would insure that the processor is cooled and prevent damage to the expensive processor.

5. Claim 6 is allowed.

6. Claims 12 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2125

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 703-305-9759. The examiner can normally be reached on Monday-Thursday from 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached on 703-308-0538. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/036,273

Page 7

Art Unit: 2125

SP-6

Steven R Garland
Examiner
Art Unit 2125

Albert W. Paladini 7-27-04
ALBERT W. PALADINI
PRIMARY EXAMINER